

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VNUS MEDICAL TECHNOLOGIES, INC.

No. 05-2972 MMC

Plaintiff

v.

DIOMED HOLDINGS, INC., DIOMED, INC.,
ANGIODYNAMICS, INC., and VASCULAR
SOLUTIONS, INC.,

Defendants

**ORDER DENYING JOINT STIPULATED
MOTION FOR ADMINISTRATIVE RELIEF
TO FILE DOCUMENTS UNDER SEAL
(DOCKET # 397)**

Before the Court is the "Joint Stipulated Motion for Administrative Relief to File Documents Under Seal," filed October 1, 2007, by which plaintiff seeks leave to file certain of its motions in limine and supporting declarations under seal, in light of defendants' having previously designated the matter disclosed therein as confidential.

Under the Local Rules of this District, where a party seeks to file under seal any material designated as confidential by another party, the submitting party must file a motion for a sealing order. See Civil L.R. 79-5(d). "Within five days thereafter, the designating party must file with the Court and serve a declaration establishing that the designated information is sealable, and must lodge and serve a narrowly tailored proposed sealing order, or must withdraw the designation of confidentiality." Id. "If the designating party does not file its responsive declaration as required by this subsection, the document or

proposed filing will be made part of the public record.” Id.

Here, the designating parties, defendants, have not filed a responsive declaration within the time provided under Civil Local Rule 79-5(d).

Accordingly, the administrative motion is hereby DENIED, and the Clerk is DIRECTED to file the following documents in the public record:

1. Plaintiff’s Notice of Motion and Brief in Support of Motion in Limine to Exclude the Thesis of Dr. Bone-Salat, Evidence of Inventive Activity in Spain, and Uncorroborated Communications About Such Activity;

2. Declaration of Suong T. Nguyen in Support of Plaintiff’s Notice of Motion and Brief in Support of Motion in Limine to Exclude the Thesis of Dr. Bone-Salat, Evidence of Inventive Activity in Spain, and Uncorroborated Communications About Such Activity;

3. Plaintiff’s Notice of Motion and Brief in Support of Motion in Limine to Exclude Expert Testimony of Drs. Laura B. Stamm and Brian W. Napper on Opinions Lacking an Adequate Factual Basis; and

4. Declaration of Suong T. Nguyen in Support of Plaintiff’s Notice of Motion and Brief in Support of Motion in Limine to Exclude Expert Testimony of Drs. Laura B. Stamm and Brian W. Napper on Opinions Lacking an Adequate Factual Basis.

IT IS SO ORDERED.

Dated: October 23, 2007


MAXINE M. CHESNEY
United States District Judge